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Paper No. 14

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**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Lynch et al. :
Application No. 09/079,101 :
Filed: May 14, 1998 :
Attorney Docket No. INT1P017 :

This is a decision on the petition filed August 23, 2004, which is being treated as a petition under 37 CFR 1.181 (no fee) to withdraw the holding of abandonment of the above-identified application. The file and petition were transferred from TC Art Unit 2613 to the Office of Petitions on October 18, 2005.

The petition is **dismissed**.

A notice of non-compliant amendment was mailed on February 25, 2002.

A response was not received and the application was deemed to have become abandoned as of midnight on March 25, 2002.

A Notice of Abandonment was mailed on December 30, 2002.

A revocation of attorney and new power of attorney was filed on November 3, 2003.

The instant petition was filed on August 23, 2004.

Petitioner contends that a timely response was filed to the February 25, 2002 Notice. Petitioner has supplied a copy of a response and states the response was mailed by the prior law firm on March 6, 2002.

CFR 1.8(b) provides that when correspondence satisfies 37 CFR 1.8(a), but was not received by the Patent and Trademark Office, the correspondence will be considered timely if:

- (1) petitioner informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence.
- (2) petitioner supplies an additional copy of the previously mailed or transmitted correspondence and certificate,
- (3) the petitioner includes a statement which attests on a personal knowledge basis, or to the satisfaction of the Commissioner, to the previously timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement, and
- (4) the Office may require additional evidence to determine if the correspondence was timely filed.

As to (3) above, petitioner alleges the paper was mailed by the prior law firm but has failed to provide a statement from an attorney at the prior law firm or Agnes Spence who signed the

certificate of mailing. If the response was in fact timely filed by the prior law firm, petitioner has failed to explain why the law firm chose not to respond to the Notice of Abandonment.

For the reasons above, the petition cannot be granted.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition To Withdraw the Holding of Abandonment." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

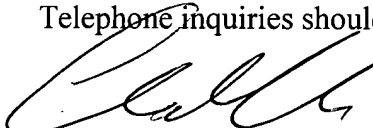
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
 Attn: Office of Petitions

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



Charles Steven Brantley
Petitions Attorney
Office of Petitions